

ORDINANCE NO. _____, Series 2008

AN ORDINANCE OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AUTHORIZING THE ISSUANCE OF ITS VARIABLE RATE DEMAND INDUSTRIAL BUILDING REVENUE BONDS (SPALDING UNIVERSITY, INC. PROJECT), SERIES 2008 IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$13,500,000 AND THE LOAN OF THE PROCEEDS THEREOF TO SPALDING UNIVERSITY, INC. TO FINANCE A PORTION OF THE COSTS OF PURCHASING, CONSTRUCTING AND IMPROVING THE BRECKINRIDGE BUILDING ON THE CAMPUS OF SPALDING UNIVERSITY AND REFINANCE OUTSTANDING DEBT; AUTHORIZING THE EXECUTION AND DELIVERY ON BEHALF OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT OF (1) AN INDENTURE OF TRUST PURSUANT TO WHICH THE BONDS WILL BE ISSUED, (2) A LOAN AGREEMENT BETWEEN THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, AS LENDER, AND SPALDING UNIVERSITY, INC. AS BORROWER, PROVIDING FOR LOAN REPAYMENTS SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS AS THE SAME BECOME DUE, AND (3) A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE BONDS ON A NEGOTIATED BASIS; AND TAKING OTHER RELATED ACTION.

Sponsored By: Councilman George Unseld

Recitals

A. The Louisville/Jefferson County Metro Government (the “Metro Government”) is a consolidated local government organized and existing under the laws of the Commonwealth of Kentucky (the “Commonwealth”) and as such is authorized under the Industrial Buildings for Cities and Counties Act, as amended, Sections 103.200 to 103.285 of the Kentucky Revised Statutes (the “Act”), to issue its industrial building revenue bonds and loan the proceeds thereof to any person to finance and refinance the costs of acquiring, constructing, and equipping an “industrial building” (as defined in the Act), including specifically land, buildings, improvements, equipment, and other facilities related to or in furtherance of the charitable purposes of any nonprofit institution, so as to accomplish thereby the public purposes of promoting the economic development of the Commonwealth, relieving conditions of unemployment, and encouraging the increase of industry therein, PROVIDED THAT SUCH BONDS ARE PAYABLE SOLELY FROM THE LOAN REPAYMENTS AND OTHER REVENUES DERIVED IN RESPECT OF THE LOAN AND DO NOT CONSTITUTE AN INDEBTEDNESS OF THE METRO GOVERNMENT WITHIN THE MEANING OF THE CONSTITUTION AND LAWS OF THE COMMONWEALTH.

B. Spalding University, Inc. (the “University”), a Kentucky nonprofit corporation, has applied to the Metro Government for the issuance of industrial building revenue bonds of the Metro Government (the “Bonds”) and the loan of the proceeds thereof to the University to (a) redeem and retire the outstanding City of Shively, Kentucky Variable Rate Demand Educational Revenue Bonds, Series 2003, (b) refinance the purchase of the Breckinridge Building and finance a portion of the costs of renovating, improving and equipping such building for use by the University, (c) renovate, expand and improve existing structures or purchase equipment consistent with the University’s Campus Master Plan and (d) pay the costs of issuance of the Bonds (collectively, the “Project”).

C. The University has requested in writing of the Mayor that the sale of the bonds be made privately upon a negotiated basis to J.P. Morgan Securities, Inc. (the “Underwriter”).

D. Prior to the enactment of this ordinance and following published notice, the Metro Council will have conducted a public hearing affording an opportunity for members of the public to express their views regarding the proposed bond issue and the nature and location of the facilities to be financed from the proceeds thereof.

E. The Metro Council now desires to [i] authorize the issuance of its Louisville/Jefferson County Metro Government Variable Rate Demand Industrial Building Revenue Bonds (Spalding University, Inc. Project), Series 2008 in the principal amount of \$13,500,000 (the “Bonds”) and the loan of the proceeds thereof to the University to finance the Project, [ii] authorize the execution and delivery on behalf of the Metro Government of the Indenture, the Loan Agreement, and the Bond Purchase Agreement hereinafter identified, and [iii] take other related action.

NOW, THEREFORE, BE IT ORDAINED by the Louisville/Jefferson County Metro Council, as follows:

1. Public Purposes. The Metro Council hereby finds and declares that the issuance of the Bonds and the loan of the proceeds thereof to the University to finance the Project will further the public purposes of the Act by promoting the economic development of the Commonwealth, relieving conditions of unemployment, and encouraging the increase of industry therein. **THE BONDS ARE PAYABLE SOLELY FROM THE LOAN REPAYMENTS AND OTHER REVENUES DERIVED IN RESPECT OF THE LOAN AND DO NOT CONSTITUTE AN INDEBTEDNESS OF THE METRO GOVERNMENT WITHIN THE MEANING OF THE CONSTITUTION AND LAWS OF THE COMMONWEALTH.**

2. Authorization of the Bonds and the Project. For the purposes set forth in the preamble hereto, there is hereby authorized and directed:

A. the issuance, execution, sale, and delivery of the Bonds, as provided herein and in the Indenture, which Bonds (i) shall be in a principal amount not to exceed Thirteen Million Five Hundred Thousand Dollars (\$13,500,000), (ii) shall bear interest at a variable rate and/or fixed rate as provided in the Indenture and as approved as provided in Section 6 hereof, but in no event shall the interest rate exceed ten percent

(10%) per annum, and (iii) shall have the maturities and be subject to redemption at the times and in the manner set forth in the Indenture and as approved as provided in Sections 6 hereof; and

B. the loan of the proceeds of the Bonds to the University to finance the Project, as provided in the Indenture and the Loan Agreement hereinafter identified.

3. Authorization of Indenture. The Mayor and the Clerk of the Metro Council are hereby authorized and directed to execute and deliver on behalf of the Metro Government an Indenture of Trust (the “Indenture”) between the Metro Government and a bond trustee designated by the University and approved by the Mayor, substantially in the form attached hereto as Exhibit A.

4. Authorization of Loan Agreement. The Mayor and the Clerk of the Metro Council are hereby authorized and directed to execute and deliver on behalf of the Metro Government a Loan Agreement (the “Loan Agreement”) between the Metro Government and the University, substantially in the form attached hereto as Exhibit B.

5. Authorization of Bond Purchase Agreement. The Mayor is hereby authorized and directed to execute and deliver on behalf of the Metro Government a Bond Purchase Agreement (the “Bond Purchase Agreement”) among the Metro Government, the University, and the Underwriter, substantially in the form attached hereto as Exhibit C, providing for the sale of the Bonds upon a negotiated basis through the Underwriter.

6. Authorization of Official to Approve Other Terms of Bonds. The Mayor is hereby authorized to approve on behalf of the Metro Government the final principal amounts, conversion privileges and actual terms and maturity schedule for the Bonds, provided that (i) the final principal amount of the Bonds shall not exceed Thirteen Million Five Hundred Thousand Dollars (\$13,500,000), (ii) the final maturity of any of the Bonds shall not extend beyond the year 2038 and (iii) the interest rate or rates and the procedures for determining such rates, any conversion privileges and actual terms and maturity schedule for the Bonds is approved by the University and the Underwriter.

7. Further Acts and Deeds. The Mayor, the Clerk of the Metro Council, and other appropriate officers and employees of the Metro Government, as may be designated by the Mayor or the Clerk of the Metro Council, are hereby authorized and directed to execute, acknowledge, and deliver on behalf of the Metro Government any and all papers, instruments, certificates, affidavits, and other documents and to do and cause to be done any and all acts and things necessary or proper for entering into and effecting this Bond Ordinance, the Bond Purchase Agreement, the Indenture, the Loan Agreement, and the Bonds, and the financing of the Project, including without limitation, approval of an Official Statement of the Metro Government relating to the Bonds, and the distribution thereof to prospective purchasers of the Bonds and to declare such Official Statement as “deemed final” within the meaning of Securities and Exchange Commission Rule 15c2-12(b)(1), provided that neither the Metro Government nor any of its councilmen, officers, employees, or agents incur any general liability thereby.

8. Severability. The provisions of this ordinance are severable, and if any section, phrase, or provision hereof shall for any reason be declared invalid or unenforceable, such declaration shall not affect the validity of the remainder of this ordinance.

9. Bonds Not a General Obligation. **The Bonds shall not be a general obligation or indebtedness of Metro Government, the Commonwealth or any agency or political subdivision thereof within the meaning of the Constitution and the laws of the Commonwealth but shall be payable solely from the loan repayments to be made by or on behalf of the University to Metro Government pursuant to the Loan Agreement and any security pledged therefor.**

10. Prior Conflicting Actions Superseded. To the extent that any ordinance, resolution, order, or part thereof is in conflict with the provisions of this ordinance, the provisions of this ordinance shall prevail and be given effect.

11. Effective Date. This ordinance shall be in full force and effect from and after its enactment and publication as provided by law.

INTRODUCED, SECONDED AND GIVEN FIRST READING at a duly convened meeting of the Metro Council of the Louisville/Jefferson County Metro Government, held on _____, 2008.

GIVEN SECOND READING AND ENACTED at a duly convened meeting of the Metro Council of the Louisville/Jefferson County Metro Government, held on _____, 2008, signed by the President and the Clerk of the Metro Council and approved by the Mayor of the Issuer, and ordered to be published in summary form, filed and indexed as provided by law.

Kathleen J. Herron, Metro Council Clerk

Jim King, President of the Council

Jerry E. Abramson, Mayor

Approved: _____
Date

APPROVED AS TO FORM AND LEGALITY:

Irv Maze
Jefferson County Attorney

By: _____

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CERTIFICATION

The undersigned hereby certifies that she is the duly qualified and acting Clerk of the Metro Council, that the foregoing is a true, correct, and complete copy of an ordinance duly enacted by the Metro Council at a duly convened meeting held on _____, 2008, on the same occasion signed by the Mayor, duly filed, recorded, and indexed in her office and now in full force and effect, and that all actions taken in connection with such ordinance were in compliance with the requirements of KRS 61.810, 61.815, 61.820, and 61.825, all as appears from the official records of said Council in her possession and under her control.

WITNESS my hand and the seal of the Louisville/Jefferson County Metro Government this _____ day of _____, 2008.

Kathleen J. Herron,
Clerk of the Metro Council

[SEAL]

Exhibit A
Indenture of Trust

Exhibit B

Loan Agreement

Exhibit C
Bond Purchase Agreement

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